

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PETER J. MCDANIELS,)	
)	CASE NO. C12-1289-TSZ-MAT
Plaintiff,)	
)	
v.)	ORDER RE: PENDING MOTIONS
)	
PETE KREMEN, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff Peter J. McDaniels proceeds *pro se* and *in forma pauperis* (IFP) in this U.S.C. § 1983 civil rights case. The Court finds several motions pending in this matter appropriate for consideration. (*See* Dkts. 145, 147, 151 & 152.) Having considered those motions, the Court finds and concludes as follows:

(1) Plaintiff filed a Motion to File Overlength Motion. (Dkt. 145.) He requests permission to submit a response, totaling thirty-four pages, to a pending motion for summary judgment. As the Court has previously advised plaintiff, such motions are disfavored. *See* LCR 7(f). Nonetheless, the Court does not find plaintiff's request unreasonable and plaintiff's

01 Motion to File Overlength Motion (Dkt. 145) is, accordingly, GRANTED.

02 (2) Plaintiff filed a Motion for Reconsideration (Dkt. 151) of the Court's Order
03 granting defendants' request for a protective order and denying plaintiff's motion to compel
04 discovery (Dkt. 140). The Court had concluded that plaintiff failed to comply with the rules
05 governing discovery, and indicated that defendants need only respond to discovery requests
06 compliant with the limits set forth in the Federal Rules of Civil Procedure and Local Civil Rules
07 (LCR). (Dkt. 140 at 1-2.) "Motions for reconsideration are disfavored. The court will
08 ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or
09 a showing of new facts or legal authority which could not have been brought to its attention
10 earlier with reasonable diligence." LCR 7(h). Because plaintiff fails to demonstrate manifest
11 error in the Court's ruling or to set forth new facts or legal authority, his Motion for
12 Reconsideration (Dkt. 151) is DENIED.

13 (3) Plaintiff also filed a Motion for Reconsideration (Dkt. 147) of the Court's Order
14 denying plaintiff's Motion to Stay Dispositive Motions, Motion for Extension of Time on
15 Pleadings, and Notice of Evidentiary Hearing on PLRA exhaustion (Dkt. 140 (denying motion
16 at Dkt. 121)). The Court had found no basis for plaintiff's requests, observing plaintiff's
17 initiation of this lawsuit, against a large number of defendants and including a large number of
18 claims, the numerous motions he has filed, and the fact that the Court has both extended the
19 discovery and dispositive motion deadlines in this case by a significant amount and granted
20 plaintiff extensions of time to respond to dispositive motions. Plaintiff contends that the Court
21 overlooked one of a number of requests contained within his motion, namely, a request for a
22 120-day extension of time to respond to defendants' summary judgment motion regarding

01 plaintiff's access to courts claim. The Court, however, considered and denied all of the
02 requests contained within plaintiff's motion. Plaintiff shows neither manifest error in the
03 Court's ruling or new facts or legal authority in support of his motion. LCR 7(h).
04 Accordingly, plaintiff's Motion for Reconsideration (Dkt. 147) is DENIED.

05 (4) Although finding no basis for granting the above-described motion for
06 reconsideration (Dkt. 147), the Court observes that plaintiff has since submitted a response to
07 the pending motion for summary judgment regarding his access to courts claim and a
08 cross-motion for summary judgment. (Dkt. 150.) While not timely, the Court finds it
09 appropriate to accept this late-filed response to allow for better consideration of plaintiff's
10 claim and the pending motions. The Court further takes note of a related request for action by
11 the Clerk. (Dkt. 152.) Plaintiff indicates he did not note his cross-motion given uncertainty
12 regarding the acceptance of his response to defendants' motion. (*See id.* at 1.) Plaintiff's
13 request for Clerk's Action (Dkt. 152) is herein GRANTED in part. Plaintiff's Cross Motion
14 for Summary Judgment on the access to courts claim (Dkt. 150) is NOTED for consideration on
15 **June 28, 2013**, and defendants' Motion for Summary Judgment on Failure to Provide Access to
16 the Court (Dkt. 103) is RENOTED for consideration as of that same date. Defendants shall
17 submit a response to plaintiff's cross motion on or before **June 24, 2013** and plaintiff may
18 submit a reply on or before the noting date. Further, to allow for better consideration of all of
19 plaintiff's claims, the pending motion and cross motion for summary judgment regarding
20 religious practices (Dkts. 90 & 141) are likewise herein RENOTED for consideration on **June**
21 **28, 2013**.

22 (5) Plaintiff also, in his motion requesting action by the Clerk, reflects that he has

01 not yet determined the name of a particular Jane Doe defendant and asks that the Court direct
02 the Clerk to fill in that name once it has been acquired. (Dkt. 152 at 2.) This request is
03 premature and, therefore, DENIED. Upon ascertaining the identity of the Jane Doe defendant,
04 plaintiff should inform the Court by submitting a Notice reflecting that information.

05 (6) In sum, and as stated above: (a) plaintiff's Motion to File Overlength Motion
06 (Dkt. 145) is GRANTED; (b) plaintiff's Motions for Reconsideration (Dkts. 151 & 147) are
07 DENIED; (c) plaintiff's motion requesting action by the Clerk (Dkt. 152) is GRANTED in part
08 and DENIED in part; and (d) plaintiff's cross motion for summary judgment on his access to
09 courts claim (Dkt. 150) is NOTED for consideration on **June 28, 2013**, and defendants' motion
10 for summary judgment on the access to courts claim (Dkt. 103) and the motion and cross
11 motion for summary judgment as to religious practices (Dkts. 90 & 141) are RENOTED for
12 consideration on **June 28, 2013**.

13 (7) The Clerk is directed to send a copy of this Order to plaintiff, counsel for
14 defendants, and to the Honorable Thomas S. Zilly.

15 DATED this 31st day of May, 2013.

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18 Mary Alice Theiler
United States Magistrate Judge
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